

MDR Tracking Number: M5-05-0291-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 1-24-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits, joint mobilization, therapeutic procedures, myofascial release and modalities (physical therapy in the form of diathermy, therapeutic exercises, electrical stimulation, and mechanical traction) from 1/23/02 through 10/01/02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 1/23/02 through 10/01/02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 22nd day of November 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

Enclosure: IRO decision

November 2, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

Patient:

TWCC #:

MDR Tracking #:

IRO #:

M5-05-0291-01

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Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ sustained a grade II lumbar sprain as a result of slipping on wet stairs at his place of employment. He fell down approximately 15 stairs hitting his elbow and head in the process. The pain became worse and he was referred to Concentra for evaluation. An x-ray examination was conducted and a prescription for pain medication was given to him.

___ underwent one physical therapy treatment at Concentra and subsequently changed treating doctors to Craig Cernosek, D.C. An MRI of the lumbar spine was conducted at Waco Open MRI on October 9, 2001. The films as read by radiologist Dr. Henry Bohm were within normal limits. He was referred to Dr. Richard Hurley for pain management. Dr. Hurley diagnosed a right radiculopathy, disc protrusion and C7 nerve root irritation and recommended epidural steroid injections and therapeutic exercises. An EMG/NCV study of the lower extremity was performed on July 3, 2002 and demonstrated an L5/S1 lumbar radiculopathy. The patient underwent office visits, manipulation, myofascial release, physical therapy modalities and therapeutic exercises until his release from care.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, joint mobilization, therapeutic procedures, myofascial release and modalities.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Upon review of the patient's record, the treatment rendered to ___ in the form of office visits, manipulation, physical therapy and therapeutic exercises were utilized to bring his case to a successful conclusion. Objective findings as well as the patient's response to treatment are clearly outlined in the office notes. The treatment in question was reasonable and necessary as it was designed to increase function and relieve symptoms so he could return to gainful employment. The TWCC Medicine Ground Rules state on page 31, 1(A) 2 that the treatment in question should be "specific to the injury and provide potential improvement of the patient's condition." Dr. Cernosek's treatments were medically necessary as they intended to "cure or relieve" the symptoms resulting from the compensable injury as outlined in the Texas Workers' Act, section 401.001(31) and should be paid according to the Medical Fee Guideline.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,

Nan Cunningham
President/CEO

CC: Ziroc Medical Director